

# NOT DESIGNATED FOR PUBLICATION

EN BANC

## ARKANSAS COURT OF APPEALS

No. CA07-1011

Opinion Delivered June 18, 2008

RICHARD SCROGGIN, ET AL.  
APPELLANTS

v.

BEATRICE SCROGGIN, ET AL.  
APPELLEES

AN APPEAL FROM CONWAY COUNTY  
CIRCUIT COURT  
[CV-2006-58]

HONORABLE DAVID McCORMACK,  
JUDGE

REBRIEFING ORDERED

---

### PER CURIAM

Appellants Richard Scroggin, Carroll Scroggin, Betty Scroggin, Benny Scroggin, and Gaylon Scroggin appeal from the Conway County Circuit Court's grant of summary judgment in favor of appellees Beatrice Scroggin, Wilhemia Scroggin, Michael Scroggin, Ann Polston, and Robert Scroggin in a matter involving a family real estate trust agreement. We cannot reach the merits of this case because appellants' addendum is deficient. Therefore, we order rebriefing.

Our decision in this case is based on Ark. Sup. Ct. R. 4-2(a)(8), which states in pertinent part:

[A]ppellant's brief shall contain an Addendum which shall include true and legible photocopies of the order, judgment, decree, ruling, letter opinion, or Workers' Compensation Commission opinion from which the appeal is taken, along with any other relevant pleadings, documents, or exhibits essential to an understanding of the case and the Court's jurisdiction on appeal.

Section (b)(3) of Rule 4-2 explains the procedure to be followed when an appellant has failed to supply this court with a sufficient brief. Section (b)(3) states:

Whether or not the appellee has called attention to deficiencies in the appellant's abstract or Addendum, the Court may address the question at any time. If the Court finds the abstract or Addendum to be deficient such that the Court cannot reach the merits of the case, or such as to cause an unreasonable or unjust delay in the disposition of the appeal, the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies, and has fifteen days within which to file a substituted abstract, Addendum, and brief, at his or her own expense, to conform to Rule 4-2(a)(5) and (8). Mere modifications of the original brief by the appellant, as by interlineation, will not be accepted by the Clerk. Upon the filing of such a substituted brief by the appellant, the appellee will be afforded an opportunity to revise or supplement the brief, at the expense of the appellant or the appellant's counsel, as the Court may direct. If after the opportunity to cure the deficiencies, the appellant fails to file a complying abstract, Addendum and brief within the prescribed time, the judgment or decree may be affirmed for noncompliance with the Rule.

In the present case, appellants failed to include in the addendum relevant documents essential to an understanding of the case, specifically, copies of appellees' complaint, the amendment to the complaint, appellants' answer, appellees' motions for summary judgment, and appellees' briefs in support of the motions. Because appellants have failed to comply with Rule 4-2(a)(8), we order them to file a substituted abstract, addendum, and brief within fifteen days from the date of entry of this order. Appellees shall then have fifteen days to revise or supplement their brief. The clerk is directed to retain this case for oral argument presently scheduled for August 27, 2008. If appellants fail to comply by submitting a proper addendum and brief within the prescribed time, the order appealed from may be affirmed for noncompliance with Rule 4-2.

Rebriefing ordered.